

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RAMON RODRIGUEZ,

Plaintiff,

v.

Case No. 8:18-cv-2745-T-60CPT

CITY BUFFET MONGOLIAN
BARBEQUE, INC. and BI XIA
XIONG,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on the report and recommendation of Christopher P. Tuite, United States Magistrate Judge, entered on April 22, 2020. (Doc. 24). Judge Tuite recommends that the Court: (1) grant in part, and deny in part, “Plaintiff’s Third Motion for Final Judgment After Default Against Defendants, City Buffet Mongolian Barbeque Inc and Bi Xia Xiong and Incorporated Memorandum of Law” (Doc. 21); (2) enter default judgment in Plaintiff’s favor, and against Defendants, on the FLSA overtime and anti-tip retention claims (Counts I, II, V, and VI) in the total amount of \$33,320.00; and (3) direct the Clerk to close this case following the entry of final default judgment. No party has filed an objection, and the time to object has expired.

Under the Federal Magistrates Act, Congress vests Article III judges with the power to “designate a magistrate judge to hear and determine any pretrial matter

pending before the court,” subject to various exceptions. 28 U.S.C. § 636(b)(1)(A). The Act further vests magistrate judges with the authority to submit proposed findings of fact and recommendations for disposition by an Article III judge. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 932 (11th Cir. 1982).

In the absence of specific objections, there is no requirement that a district judge review the facts *de novo*. *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). However, the district judge review legal conclusions *de novo*, even in the absence of an objection. *See Cooper-House v. S. Ry. Co.*, 37 F.2d 603, 604 (11th Cir. 1994); *Castro Bobadilla v. Reno*, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), *aff’d*, 28 F.3d 16 (11th Cir. 1994) (table). When no timely and specific objections are filed, the district judge should review the magistrate judge’s proposed findings and recommendations using a clearly erroneous standard. *See Gropp v. United Airlines, Inc.*, 817 F. Supp. 1558, 1562 (M.D. Fla. 1993).

After careful consideration of the record, including Judge Tuite’s report and recommendation, the Court adopts the report and recommendation. The Court agrees with Judge Tuite’s detailed and well-reasoned findings and conclusions.

It is therefore

ORDERED, ADJUDGED, and DECREED:

1. The Report and Recommendation (Doc. 24) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.

2. "Plaintiff's Third Motion for Final Judgment After Default Against Defendants, City Buffet Mongolian Barbeque Inc and Bi Xia Xiong and Incorporated Memorandum of Law" (Doc. 21) is **GRANTED IN PART** and **DENIED IN PART**.
3. The motion is **GRANTED** to the extent that final judgment will be entered in Plaintiff's favor, and against Defendants, on Counts I, II, V, and VI.
4. The motion is **DENIED** in all other respects.
5. The Clerk is directed to enter final default judgment in Plaintiff's favor, and against Defendants, on Counts I, II, V, and VI in the total amount of \$33,320.00.
6. Following the entry of final judgment, the Clerk is directed to terminate any pending motions and deadlines and thereafter **CLOSE THIS CASE**.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 13th day of May, 2020.



TOM BARBER
UNITED STATES DISTRICT JUDGE